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MINISTRY OF LAW.

New Delhi, the 31st October, 1956

The following President's Acts are published for general information:—

THE TRAVANCORE-COCHIN IRRIGATION ACT, 1956
No. 7 OF 1956

Enacted by the President in the Seventh Year of the Republic of India.

An Act to provide for the construction, repair and maintenance of irrigation works, the conservation and distribution of water for purposes of irrigation and the levy of betterment contribution and water cess.

19 of 1956.

In exercise of the powers conferred by section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, the President is pleased to enact as follows:—

PART I
PRELIMINARY

1. (1) This Act may be called the Travancore-Cochin Irrigation Act, 1956.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force on such date as the Government may, by notification, appoint.

2. In this Act, unless the context otherwise requires,—

(1) "Collector" means the Collector of a district;

(2) "contribution" means the betterment contribution referred to in section 17;

(3) "irrigation" with its grammatical variations includes "drainage" with its corresponding variations;

Short title,
extent and
commencement.

Definitions.

(4) "Irrigation Officer" means an officer appointed by the Government to perform all or any of the functions of an Irrigation Officer under this Act;

(5) "irrigation work" includes—

(a) all canals, channels, reservoirs and tanks which are intended or which are or may be used for the supply and storage of water for agricultural purposes;

(b) all works, embankments, structures, supply and escape channels connected with such canals, channels, reservoirs or tanks;

(c) all water-courses which are supplied with water from such canals, channels, reservoirs or tanks;

(d) all drainage works, that is to say, canals, channels, escape channels from a canal, channel, reservoir or tank, dams, weirs, embankments, sluices, groynes or other works for the protection or benefit of agricultural lands or for the reclamation of kore lands, kaval lands, kari lands or such other lands; and

(e) all lands occupied by the Government for the purposes of such canals, channels, reservoirs, tanks and all buildings, machinery, fences, gates and other erections occupied by or belonging to the Government upon such lands;

(6) "landholder" in relation to any land means the person liable to pay to the Government the public revenue due on the land:

Provided that in respect of any land comprised in the holding of a kanam tenant in the territory to which the Kanam Tenancy Act, 1955, extends, the kanam tenant and not the ^{XXIV} of jenmi shall be deemed to be the landholder in respect of such ¹⁹⁵⁵ land;

(7) "lift irrigation work" means an irrigation work by which water for irrigation purposes is supplied with the aid of pumping sets or other mechanical devices;

(8) "major irrigation work" includes lift irrigation work and all irrigation works irrigating or useful for the drainage or protection of an extent of over 200 acres;

(9) "majority of proprietors" means the proprietors of more than one-half of the acreage benefited by an irrigation work;

(10) "minor irrigation work" includes all irrigation works other than major and petty irrigation works;

(11) "notification" means a notification published in the Gazette;

(12) "petty irrigation work" includes all irrigation works irrigating or useful for the drainage or protection of an extent of not over five acres;

(13) "prescribed" means prescribed by rules made under this Act;

(14) "proprietor" means the owner of the land and includes the cultivator or person in actual possession of such land.

3. The Government may, from time to time, by notification, ^{Conferment of powers.} invest any officer or any Board constituted under this Act or any member thereof with all or any of the powers or duties conferred or imposed by or under this Act on the Government and shall declare the local limits within which such powers or duties shall be exercised or performed.

PART II

PETTY AND MINOR IRRIGATION WORKS

4. (1) The construction, repair and maintenance of all petty irrigation works shall devolve upon the panchayat within the local limits of which such petty irrigation works are situated: ^{Construction, repair and maintenance of petty irrigation works.}

Provided that the construction, repair and maintenance of petty irrigation works in local areas where according to custom such works are carried out, repaired or maintained by the Government wholly at their cost, may be taken up by the Government.

(2) The panchayat may, with the previous sanction of the Government, levy an annual cess on any area benefited by a petty irrigation work constructed, repaired or restored wholly or partly at the cost of the panchayat.

(3) Such cess shall be fixed upon an acreage basis and so as to ensure to the panchayat a return not exceeding three per cent. on the capital expenditure incurred by the panchayat after making provision for depreciation and maintenance:

Provided that the cess so fixed shall not exceed Rs. 3-8-0 per acre.

5. (1) Save as otherwise provided, the construction, repair and maintenance of all minor irrigation works shall devolve upon the Government. ^{Construction, repair and maintenance of minor irrigation works.}

(2) The Government may levy an annual cess on any area benefited by a minor irrigation work constructed wholly or partly at the cost of the Government.

(3) The cess under sub-section (2) shall be fixed upon an acreage basis and so as to ensure to the Government a return not exceeding three per cent. on the capital expenditure incurred by the Government after making provision for depreciation and maintenance:

Provided that the cess so fixed shall not exceed Rs. 3-8-0 per acre.

(4) If the majority of the proprietors agree to repay the cost incurred by the Government on any minor irrigation work, no cess shall be levied on the lands benefited by such work, but the proprietors shall be liable to maintain the work in such manner and within such time as may be prescribed. The cost incurred by the Government on such work shall be a first charge on the lands benefited and shall be recovered *pro rata* from such lands as arrears of public revenue in such equal annual instalments, not less than five, and on such dates as may be fixed by the Government from time to time together with interest at three per cent. per annum:

Provided that the Government may remit in whole or in part the cost incurred by them on any such work and the interest thereon.

(5) The Government may levy an annual cess on any area benefited by a minor irrigation work existing at the commencement of this Act and which is restored or repaired after such commencement wholly or partly at the cost of the Government.

(6) The cess under sub-section (5) shall be fixed upon an acreage basis and so as to ensure to the Government a return not exceeding three per cent. on the total cost incurred by them after making provision for the cost of maintenance of such work:

Provided that the cess so fixed shall not exceed Rs. 3-8-0 per acre.

(7) Nothing in sub-sections (2), (3), (4), (5) and (6) shall apply to minor irrigation works in local areas where according to custom the construction, repair and maintenance of such works are carried out by the Government wholly at their cost.

Procedure of
the Collector
on an appli-
cation for
execution of
new minor
irrigation
works.

6. If in any local area the Collector is satisfied on the application of any proprietor interested in a minor irrigation work or otherwise and after making such enquiries as he may deem necessary that the work should be executed in the interest of the majority of

proprietors, he may cause a plan and an estimate of the work and a specification of the lands likely to be benefited thereby to be prepared.

7. (1) The plan, estimate and specification prepared under section 6 shall be forwarded to the Government and an abstract of the estimate and the specification of the lands likely to be benefited shall be published in the Gazette with a notice calling upon all persons concerned who may have any objection to the work being done to put in their objections before the Collector within a time to be specified in the notice and such notice shall also be served upon the proprietors concerned.

(2) The Collector shall hear and record the objections, if any, which may be put in and forward the same to the Government with his opinion.

8. If no objections have been put in or if the majority of proprietors agree to the work, the estimate may be sanctioned and the work carried out at the cost of the Government. In any case in which the majority of the proprietors do not agree, if it be found, after duly considering their objections, that the work proposed should be executed in the interest of the proprietors, the Government may order the work to be carried out at the cost of the Government.

9. (1) If in the case of any accident being apprehended or happening to any petty or minor irrigation work, any work in the nature of an urgent repair is needed, failure to carry out or delay in carrying out which is likely to cause serious damage, the Collector may, notwithstanding anything contained in sections 4 to 8, order the execution of such work at the cost of the Government and forthwith report to the Government, and in the case of petty irrigation works to the panchayat concerned, the action taken by him.

(2) The cost of any work carried out under sub-section (1) shall be recoverable—

(a) in the case of a petty irrigation work, from the panchayat concerned; and

(b) in the case of a minor irrigation work, the cost of construction of which is recoverable under sub-section (4) of section 5, *pro rata* from the proprietors.

10. It shall be the duty of the Irrigation Officer to inspect periodically all petty and minor irrigation works situated within the local limits of his jurisdiction, and to report to the Collector the condition of those works. If the Collector finds that any work is to be executed for the satisfactory maintenance of any petty or minor irrigation work, he may cause a plan and an estimate of the work and a specification of the lands likely to be benefited thereby to be prepared.

irrigation work, he may, in the case of a minor irrigation work, execute the work at the cost of the Government and with their sanction, and in the case of a petty irrigation work, require the panchayat concerned to execute the work within such time as may be fixed by him. If the work is not executed within the time fixed, the panchayat shall be deemed to have made default in performing a duty imposed by this Act and the provisions of section 38 of the Travancore-Cochin Panchayats Act, 1950, shall, so far as may be, apply in relation to the execution of any such work.

11 of 1950

PART III

MAJOR IRRIGATION WORKS

Construction, repair and maintenance of major irrigation works.

Procedure of construction of major irrigation work.

Investigation of objections.

When the Government may carry out the work.

Power to levy cess.

11. The construction, repair and maintenance of all major irrigation works shall devolve on the Government.

12. If in any local area, the Collector is satisfied on the application of any proprietor or otherwise, that any new major irrigation work should be constructed or repaired, such officer may cause a plan and an estimate of the work and a specification of the lands likely to be benefited thereby to be prepared.

13. The plan, estimate and specification prepared under section 12 shall be forwarded to the Government and an abstract of the estimate and the specification of the lands likely to be benefited shall be published in the Gazette with a notice calling upon all persons concerned who may have any objection to the work being done to put in their objections before the Collector within a time to be specified in the notice. The Collector shall hear and record the objections, if any, which may be put in and forward the same to the Government with his opinion.

14. If it be found after duly considering the objections that the work proposed should be executed in the interests of the proprietors, the Government may order the work to be carried out at the cost of the Government.

15. (1) The Government shall be entitled to levy an annual cess on any land benefited by a major irrigation work the construction, expansion or alteration of which the Government have undertaken.

Explanation.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed provided such non-enjoyment is not due to any default on the part of the Government.

(2) In the case of lands benefited by a major irrigation work the construction, expansion or alteration of which the Government have undertaken before the 1st January, 1943, the cess leviable

under sub-section (1) shall be fixed upon an acreage basis and so as to ensure to the Government a return not exceeding three per cent. on the capital outlay after making provision for depreciation and maintenance.

(3) In the case of lands benefited by a major irrigation work, the construction, expansion or alteration of which the Government have undertaken on or after the 1st January, 1943, the cess leviable under sub-section (1) shall be at the following rates:—

(a) lands already registered as single crop wet lands and on which two or more paddy crops could be raised ...	Rs. 6 per acre;
(b) other lands already registered as wet lands ...	Rs. 5 per acre;
(c) lands made fit for cultivation and on which only one paddy crop could be raised ...	Rs. 6 per acre;
(d) lands made fit for cultivation and on which two or more paddy crops could be raised ...	Rs. 10 per acre,
(e) other lands benefited ..	at such rates per acre not exceeding rupees ten as may be fixed by the Government from time to time:

Provided that in cases where irrigation water is availed of by bailing or by means of mechanical contrivance, the water-cess leviable shall be at 50 per cent. of the rates specified in clause (a) or clause (b) or clause (c) or clause (d), as the case may be.

Explanation.—The right of the Government to levy cess at the rates specified in this sub-section shall not be affected by the fact that the lands are cultivated with crops other than paddy or that the lands are not actually cultivated.

(4) Arrears of cess levied under this section shall bear interest at the rate of four per cent. per annum.

16. It shall be the duty of the Irrigation Officer to periodically inspect all major irrigation works and report to the Chief Engineer the condition of those works. The Chief Engineer may on being satisfied from the report or from other reliable information that any work is to be executed for the proper maintenance of the work, execute the work at the cost of the Government.

Irrigation Officer to report periodically on condition of major irrigation works.

PART IV

BETTERMENT CONTRIBUTION

Levy of betterment contribution. 17. The Government shall be entitled to levy a betterment contribution, in accordance with the provisions of this Part from the landholder of any land which, in their opinion, is benefited by any major irrigation work the construction, expansion or alteration of which the Government have undertaken on or after the 1st January, 1943.

Explanation.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed provided such non-enjoyment is not due to any default on the part of the Government.

Amount of betterment contribution. 18. (1) The lands benefited by the construction, expansion or alteration of any major irrigation work shall be divided into suitable classes by the Government and the annual increase in the gross produce of each class of lands consequent on the provision of irrigation facilities shall be estimated:

Provided that all lands which are of the same *taram* and which, judged by their commandability, are so situated as to derive the same amount of benefit from the work shall be placed in the same class.

(2) The annual increase in the gross produce shall be estimated with reference to the average of the prices prevailing during the five years immediately preceding the date of making such estimate.

(3) Twenty times the annual increase in the gross produce estimated under sub-section (1) shall be deemed to be the increase in the capital value of each class of land; and one-fourth of the sum by which the said increase in the capital value exceeds the cost (estimated in the prescribed manner) of making such class of land fit for advantageous irrigation under the major irrigation work shall be the contribution payable in respect of that class of land.

Explanation.—The cost of making each class of land fit for advantageous irrigation shall include the cost of converting dry land into wet land.

(4) The contribution payable in respect of each class of lands expressed in terms of rate per acre shall be notified in the Gazette and in such other manner, if any, as may be prescribed:

Provided that the officer authorised in that behalf shall, before determining the contribution under the foregoing provisions of this section, publish his proposals in the prescribed manner and shall consider suggestions and objections received within the time allowed.

(5) An appeal shall lie to the prescribed authority against a decision with respect to the contribution notified under sub-section (4) and any modification made on such appeal shall be notified in the prescribed manner.

(6) An order notified under sub-section (4) or, where it is modified under sub-section (5), the order notified under that sub-section, shall be binding on all persons having interest in the lands and shall not be liable to be questioned in a court of law.

19. The contribution payable under this Part in respect of any land shall be deemed to be public revenue due upon the said land; and the land, the buildings upon it and its products shall be regarded as the security of the contribution. When the whole or portion of an instalment of the contribution payable in any year is not paid on the due date, the amount of the instalment or its unpaid portion shall be deemed to be an arrear of land revenue and the provisions of the Travancore-Cochin Revenue Recovery Act, 1951, shall apply to the recovery of the said arrear as they apply to the recovery of the revenue due on the land.

VII of 1951.

Contribution recoverable as arrear of land revenue.

20. (1) Contribution shall become payable under this Part on a written notice of demand therefor issued by an officer authorised by the Government in this behalf being served on the landholder:

When contribution becomes payable.

Provided that no such notice shall be served until the expiry of two years after the date of provision of irrigation facilities to the land concerned.

(2) For the purpose of sub-section (1), the date of provision of irrigation facilities to a particular area commanded by the major irrigation work shall be the date which the Government may, by notification, specify.

(3) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than the landholder, who has an interest in the land or on a successor-in-interest of the landholder or in respect of any instalment of the contribution.

21. (1) The contribution payable by a landholder shall be paid by him in twenty equal annual instalments:

Mode of payment of contribution.

Provided that he shall be entitled to pay the entire contribution with a rebate of twenty per cent. within a period of one year from the date on which he becomes liable to pay the contribution.

(2) Arrears of instalments of the contribution shall bear interest at the rate of four per cent. per annum.

22. If the Government accept any money from any person for the construction, expansion or alteration of any major irrigation work Rebate in certain cases.

and such person becomes liable to pay contribution in respect of any land benefited by such construction, expansion or alteration, the sum accepted from him shall be credited towards the contribution payable by him.

Right of reimbursement in respect of contribution. 23. Where in respect of a particular land two or more persons are liable to pay contribution under this Part nothing in the Part shall be deemed to affect the right of each such person to reimbursement from the other.

Tenant or mortgagee liable to pay instalment of contribution. 24. Notwithstanding anything contained in sections 17, 19, 20 and 21 where any land benefited by a major irrigation work is in the occupation of a tenant under a lease and the lessor is not entitled to enhance the rent either under any law governing the lease or under the contract of tenancy, or where such land is in the possession of a mortgagee, the liability to pay the instalment of the contribution falling due during the period of occupation or possession shall be on the tenant or the mortgagee, and the amount so due shall be a charge on the interest of such tenant or mortgagee in the said land and it shall be recoverable from such tenant or mortgagee as an arrear of land revenue and the provisions of sections 17, 20 and 21 shall apply in relation to any such instalment as they apply in relation to an instalment due from a landholder.

Exemption. 25. If, in the opinion of the Government, the enforcement of all or any of the provisions of this Part will cause hardship in the case of any class or classes of lands in any locality, the Government may, by notification, setting out the grounds therefor, exempt either permanently or for a specified period, such class or classes of lands from all or any of the provisions of this Part, subject to such conditions, if any, as the Government may deem fit to impose.

Postponement of recovery of contribution. 26. Where there has been a failure of crops in any area, the Government may, notwithstanding anything contained in this Part or the rules made under this Act, postpone for such period as they may think fit, the recovery of any instalment of the betterment contribution.

PART V

OBTAINING MATERIALS IN EMERGENCIES

Impression of materials for urgent work of repair etc.

27. (1) Whenever it appears to an Irrigation Officer that unless some work or repair is immediately executed any irrigation or drainage work would sustain such serious damage as to cause sudden and extensive public injury, such officer or other person authorised by him in this behalf may enter upon or into any immovable property in the neighbourhood of any such irrigation or

drainage work and take possession of, appropriate and remove any trees and any timber, bamboos, mats, ropes, straw, earth, stones or other materials found in or upon such property, and use the same for the purpose of such work, repair or clearance. The Irrigation Officer or other person authorised by him who appropriates and removes any materials as aforesaid shall prepare an inventory thereof and keep it as record with his signature affixed thereto.

(2) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

28. All persons whose materials may be taken under section 27 shall, as soon as may be reasonably practicable and in any case within 15 days from the date on which the work or repair was completed, be paid by the Irrigation Officer for such materials at 25 per cent. in excess of their prevailing market rate and in case of dispute as to the prevailing market rate, the Irrigation Officer shall at once refer the dispute to the decision of the Collector and such decision shall be final.

29. Whenever as a result of the removal under section 27 of any trees, bamboos, earth, stone or other materials, any other damage results directly to any person, the Irrigation Officer shall pay or tender payment for such damage, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector and such decision shall be final.

PART VI

REGULATION OF WATER SUPPLY

30. (1) The distribution of the water of all minor and major irrigation works constructed, repaired or maintained wholly or partly at the cost of the Government shall be regulated by such rules or orders as may be prescribed or issued by Government from time to time.

(2) The distribution of water from all petty irrigation works constructed, repaired or maintained wholly or partly at the cost of the panchayat shall be regulated by such bye-laws as may be framed in that behalf by the panchayat. The distribution of water from petty irrigation works, in local areas where according to custom such works are carried out, repaired or maintained by the Government wholly at their cost shall be regulated by such rules or orders as may be prescribed or issued by Government from time to time.

PART VII

PENALTIES AND PROCEDURE

Offences
punishable
under the
Act.

31. Whoever without proper authority does any of the following acts, that is to say,—

- (1) injures, alters, enlarges or obstructs any irrigation work;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any irrigation work;
- (3) interferes with or alters the flow of water in any irrigation work so as to endanger, injure or render less useful any such work;
- (4) being entitled to the use of the irrigation work, causes or occasions waste of the water in such irrigation work or interferes with the authorised distribution of water therefrom or uses such water in an unauthorised manner;
- (5) corrupts or fouls the water of any irrigation work so as to render it less fit for the purposes for which it is ordinarily used;
- (6) destroys or moves any level mark or water gauge fixed by the authority of a public servant;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Cost of carrying out work to be recovered from convicted person.

32. Where any person is convicted of an offence under section 31 any Irrigation Officer may remove the obstruction or repair the damage or replace or repair the level mark or water gauge in respect of which the conviction has taken place and the cost thereof shall be recoverable from such person as arrears of public revenue.

Suit or application for the issue of an injunction.

33. Except where otherwise provided or where an order or decision is declared to be final, all claims in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall entertain a suit or application for the issue of an injunction to restrain the exercise of any powers conferred by this Act upon the Government or any person or body of persons or any officer except where the result of the exercise of such power is solely to adjudicate the rights between private parties.

Power to arrest without warrant.

34. Any person in charge of an irrigation work or of the distribution of water from such work may take into custody without a warrant and take forthwith before a Magistrate or to the nearest

police station to be dealt with according to law, any person who, within his view, commits any of the following offences:—

- (1) wilfully injures or obstructs any irrigation work; or
- (2) without proper authority interferes with the supply or flow of water in or from any irrigation work.

35. The period of limitation for an appeal under this Act shall be sixty days from the date of the order appealed against. Period of limitation.

PART VIII

MISCELLANEOUS

36. No suit or prosecution or other legal proceeding shall lie against any person in respect of anything done or intended to be done in good faith under this Act or the rules made thereunder. Protection of action taken under Act.

37. No action shall lie against the Government or a panchayat for not complying with the application of ryots for the construction, repair, improvement or restoration of any irrigation work. Bar of action against Government or panchayat.

38. The rate of cess fixed by the Government or the panchayat shall be final and shall not be liable to be questioned by any Civil Court. Rate of cess fixed under this Act to be final and not to be questioned by any Civil Court.

39. (1) The Government may, by notification, constitute an Irrigation Board for any local area for regulating the distribution of water of any irrigation work, for keeping the irrigation work or any part thereof in repair, and for such other purposes as may, from time to time, be prescribed by the Government by rules made under this Act. Constitution of Irrigation Boards, their functions.

(2) The Government may in like manner dissolve any Board constituted under sub-section (1).

40. The Government may, by notification, authorise any person to exercise any one or more of the powers vested in the Collector by this Act and may in like manner withdraw such authority. Delegation of power by Government.

41. Notwithstanding anything to the contrary contained in any law for the time being in force or in any contract, the liability to pay the cess levied by the Government or a panchayat under this Act in respect of any land shall be on the person in actual occupation or possession of such land at the time such cess or any instalment thereof falls due and the amount so due shall be a charge on the interest of such person in the said land and it shall be recoverable from such person as an arrear of land revenue. Liability to pay cess.

Power to
make rules.

42. (1) The Government may, after previous publication, make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules for—

(a) the delegation of their powers to the Board of Revenue, Collectors or other authorities;

(b) the provision of such appeals and revision as may be found necessary in respect of the orders passed by any authority to whom powers may be so delegated;

(c) specifying the area benefited by an irrigation work and the extent of the benefit;

(d) the manner of estimating the gross produce and prices under section 18;

(e) the proceeding of any officer who under the provisions of this Act is required or empowered to take action in any matter;

(f) the cases in which and the officers to whom and the conditions subject to which orders and decisions given under any provision of this Act shall be appealable;

(g) the persons by whom, the time, place or manner at or in which anything for the doing of which provision is made in this Act shall be done;

(h) the number of elected and nominated members for each board, the term of office of the members of the board, the qualification and registration of electors, the time and mode of election and any other matter connected with election, the dissolution or supersession of the boards and the consequences of such dissolution or supersession, the powers and duties of the board, the conduct of business at meetings of the board, the appointment and punishment of the servants of the board and the relation between two or more boards under section 39; and

(i) all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this section shall be published in the Gazette.

Repeals and
savings.

43. (1) The Travancore Irrigation Act, III of 1072, and the Cochin Irrigation Act, VIII of 1111, are hereby repealed.

(2) Notwithstanding such repeal, any cess in respect of the period from the 1st day of April, 1950 until the date of commencement of this Act, due on any land benefited by a lift irrigation work shall be recoverable at the rate specified in sub-section (3) of section 15 which is applicable to the appropriate category of land, and the cess so recoverable shall be deemed to be an arrear of cess due within the meaning of this Act.

(3) If any person who has paid before the commencement of this Act, for any part of the period specified in sub-section (2), any amount by way of cess in respect of any land benefited by any lift irrigation work in excess of the amount recoverable from him under sub-section (2) continues to hold that land, he shall be entitled to have the excess adjusted towards any cess payable by him after such commencement in respect of that land under this Act.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

Reasons for the enactment

Major irrigation works including lift irrigation works constructed in recent years and those that are under construction or will be constructed are much more expensive than those built in the past. The owners of lands benefited by these projects, apart from deriving annual profits from them, get the advantage of a substantial increase in the value of their land at the expense of the general tax-payer and it is but legitimate that the individuals who derive such an unearned increment by the construction of major irrigation works, not by their own effort but by the effort of the community at large, should bear at least a reasonable portion of the cost of providing the benefits thereon.

2. The Government, therefore, considered that the question whether a betterment contribution should not be imposed on such lands should be examined in detail and for this purpose appointed a Committee to make definite proposals in the matter. After considering this Committee's report a Bill providing for the levy of such contribution was introduced in the State Legislative Assembly. Another Bill for the purpose of integrating the various irrigation

Acts in force in the Travancore and Cochin portions of the State was also introduced. The Select Committee to which these two Bills were referred suggested that they might be combined into a single Bill. A combined Bill was prepared by another Committee to which the two Bills were referred and which incorporated the provisions of the two Bills as revised by previous Committees. This combined Bill was considered by the Select Committee and its report was presented to the Legislative Assembly. But the combined Bill as revised by the Select Committee could not be passed as the Legislative Assembly was dissolved by the President's Proclamation dated the 23rd March, 1956.

3. A sum of Rs. 15 lakhs has been included in the Budget for 1956-57 as receipt on account of betterment levy. Already one project under the First Five Year Plan, namely, the Perinchani Scheme has been completed and four other irrigation projects are scheduled to be completed during this year, namely, Peechi, Chalakudi first stage, Vazhani and Neyyar first stage. In a portion of the commanded area of the Peechi and Chalakudi Projects water has already been let out for irrigation purposes. Apart from the betterment levy, water cess has also to be realised from the lands to be benefited. Unless the law for the levy of betterment contribution is passed. Government would lose the revenue, which should be realised from the lands benefited by these Schemes. It is also necessary to raise as much revenue as possible for financing the Second Five Year Plan Schemes. The Travancore-Cochin Irrigation Act, 1956, has accordingly been enacted for giving effect to the objectives mentioned above.

4. The Act seeks to incorporate the existing laws in force in Travancore-Cochin relating to the construction, maintenance and repair of irrigation works and the conservation and distribution of water for irrigation purposes and follows the lines of the combined Bill as revised by the Select Committee. The Act provides for the levy of betterment contribution on lands benefited by major irrigation works and lift irrigation works constructed from 1st January, 1943. Provision has also been made for the imposition of water cess. Important provisions of the Act are briefly explained below.

5. *Section 4.*—The construction, repair and maintenance of all petty irrigation works, that is to say, those irrigating or useful for the drainage or protection of an extent not over 5 acres, devolve upon the panchayat within the limits of which those works are situated. Where, however, Government have to carry out such works according to the custom in any local area, this duty would devolve on them.

Power has also been given to the panchayat to levy with the previous sanction of the Government an annual cess not exceeding Rs 3/8/- ar. acre on any area benefited by the work.

6. *Section 5.*—According to this section the construction, repair and maintenance of minor irrigation works devolve upon the Government and they are empowered to levy a cess up to Rs. 3/8/- per acre on an acreage basis so as to ensure a return not exceeding 3 per cent. from the capital outlay after providing for depreciation and maintenance. No cess will be levied if the majority of proprietors agree to repay to Government the cost of the works. The cost of such works has also been made a first charge on the lands benefited and the liability to maintain the works has also been laid on the owners of the lands.

7. *Sections 6 to 8* lay down the procedure for the construction of new irrigation works. The Collector may, on the application of any proprietor interested in the minor irrigation work or otherwise and after inviting and hearing objections, forward a plan and the estimate of the work and a specification of the lands to the Government and the Government may after considering the objections order the work to be carried out wholly at the cost of the Government.

8. *Section 9.*—Power has been vested in the Collector to order the execution of any work in the nature of an urgent repair at the cost of Government where failure to carry out or delay in carrying out is likely to cause serious damage to any minor or petty irrigation work and in every such case the Collector is required to report the action taken by him to the Government or the panchayat concerned.

9. *Section 10* imposes a duty on the Irrigation Officer to inspect periodically all petty or minor irrigation works and report their condition to the Collector. Power has been vested in the Collector to execute the work at the cost of the Government in the case of minor irrigation works and to require the panchayat to execute the work in the case of petty irrigation works.

10. *Sections 11 to 14.*—The construction, repair and maintenance of all major irrigation works, that is to say, lift irrigation work and all irrigation works irrigating or useful for the drainage or protection over an extent of 200 acres devolve on the Government. Power has been given to the Collector to prepare a plan and an estimate of the work and a specification of the lands benefited, if he is satisfied that any new major irrigation work should be constructed or repaired. The Collector will hear and record any objections to

the work being done and forward the same to Government and Government after considering the objections, if any, may carry out the work at their cost.

11. *Section 15.*—Under this section Government are entitled to levy annual cess on any land benefited by a major irrigation work, the construction, expansion or alteration of which they have undertaken. Where such work was undertaken before 1st January, 1943, the rate of cess is fixed on an acreage basis so as to ensure to Government a return not exceeding 3 per cent. of the capital outlay after providing for depreciation and maintenance. In the case of works undertaken by Government from 1st January, 1943, onwards the rates of cess to be levied have been specified in the section. The main reason for treating lands benefited by irrigation works constructed on or after 1st January, 1943, from lands benefited by works constructed before that date is as follows. In the first place the former class of lands is subjected to the levy of betterment contribution whereas the latter class is not so subjected. Secondly, the capital outlay in the case of works constructed on or after 1st January, 1943, will be very high when compared with the capital outlay in respect of the works undertaken before that date and so the levy of a cess at 3 per cent. on the capital outlay as proposed in the class of lands on the same basis as that proposed in the latter class of lands together with the levy of betterment contribution would hit hard the land-owner of the former class of lands. Power has, therefore, been taken to levy a cess at a reasonable rate on lands benefited by irrigation works constructed on or after 1st January, 1943.

12. *Section 16* requires the Irrigation Officers to inspect periodically all major irrigation works and report their condition to the Chief Engineer and the latter may execute the work at the cost of the Government if he is satisfied that the work is necessary for the proper maintenance of the major irrigation work.

13. *Sections 17 to 21.*—According to these sections, in the case of a major irrigation work constructed, repaired or altered by Government on or after 1st January, 1943, Government are entitled to levy a betterment contribution on the landholder of any lands benefited thereby. Such lands would be divided into suitable classes and the annual increase from the gross produce of each class of lands consequent on the provision of irrigation facilities will be estimated with reference to the average of the prices prevailing during the 5 years preceding the date of making such estimate. The increase in the capital value of each class of land will be deemed to be 20 times the said annual increase. The annual increase in the gross produce and

4th of the same by which the said increase in the capital value exceeds the cost of making lands fit for advantageous irrigation will be the contribution payable in respect of such class of lands. The amount of contribution will be notified after considering objections and suggestions and an appeal will lie to the prescribed authority. Contribution is payable by a landholder in 20 equal annual instalments or as a lump sum within a period of one year in which case a rebate of 20 per cent. is allowed and will be recoverable as arrears of land revenue.

14. *Section 24.*—Where the land benefited by a major irrigation work is in the occupation of a tenant under a lease and the lessor is not entitled to enhance the rent or where such land is in possession of a mortgagee, the liability to pay the instalment of contribution falling due during the period of such occupation will be that of the tenant or the mortgagee and the amount will be a charge on his interest.

15. *Section 25* confers power on the Government to exempt any class or classes of land either permanently or for a specified period from the provisions of the Act if the Government are of opinion that by the imposition of betterment levy hardship will be caused to the class or classes of land concerned.

16. *Section 26* empowers the Government to postpone for any period the recovery of any instalment of contribution of betterment levy in cases where there is a failure of crops in any area.

17. *Sections 27 to 29* empower the Irrigation Officer, or any person authorised by him, in cases of emergency to enter upon or into any immovable property in the neighbourhood and remove any materials and use the same for the purpose of doing any urgent work or repair. Within 15 days of the completion of work or repair the owner will be paid the value of the materials taken at 25 per cent. in excess of the market rates. The owner will also be paid for any other damage resulting from the removal of the materials; and in case of dispute as to the sufficiency of the amount paid to the owner, the Collector will finally pass orders in the matter.

18. *Section 39* empowers the Government to constitute an Irrigation Board in any area for regulating the distribution of water of any irrigation work, for keeping the work in repair and for such other purposes specified by Government.

19. *Section 41* makes it clear that the liability to pay cess is on the person in actual possession or occupation of the land benefited at the time such cess or instalment thereof falls due and the amount so due is a charge on the interest of such person in the land.

20. Section 43 provides that cess due on lands benefited by any lift irrigation work in respect of the period from the 1st April, 1950, up to the date of commencement of this Act, shall be recoverable at the rates applicable to the appropriate category of land as provided under the present Act.

21. The Committee constituted under the proviso to sub-Section (2) of section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, has approved the enactment of this measure.

A. V. PAI,
Secy. to the Govt. of India,
Ministry of Home Affairs.

**THE TRAVANCORE-COCHIN INTERPRETATION AND
GENERAL CLAUSES (AMENDMENT) ACT, 1956**

No. 8 OF 1956

Enacted by the President in the Seventh Year of the Republic of India

An Act to amend the Travancore-Cochin Interpretation and General Clauses Act, 1125.

In exercise of the powers conferred by section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, the ~~29~~ of 1956. President is pleased to enact as follows:—

Short titl. 1. This Act may be called the Travancore-Cochin Interpretation and General Clauses (Amendment) Act, 1956.

Amendment of section 2. 2. In clause (3) of section 2 of the Travancore-Cochin Interpretation and General Clauses Act, 1125 (hereinafter referred to as the ~~VII~~ of 1125. principal Act), for the words "and a Proclamation", the words "a Proclamation and a President's Act" shall be substituted.

Amendment of section 3. 3. For sub-section (1) of section 3 of the principal Act, the following sub-section shall be substituted, namely:—

“(1) Where any Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which the Act is first published in the Gazette after it receives the assent of the Rajpramukh or the President, as the case may be.”.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

Reasons for the enactment

Sub-section (1) of section 3 of the Travancore-Cochin Interpretation and General Clauses Act, 1925, lays down that an Act will come into operation on the day on which it is published in the Gazette after the assent of the Rajpramukh thereto. There are certain Acts of the State Legislature which for their validity require the assent of the President under the Constitution. The provisions of sub-section (1) do not cover such cases since that sub-section mentions only Acts which are assented to by the Rajpramukh. It is, therefore, considered necessary to amend suitably sub-section (1) so that Acts which require the assent of the President come into operation on the day on which they are published in the Gazette after they receive the assent of the President.

Clause (3) of section 2 of the Act defines the word "Act" as including an Ordinance and a Proclamation. It is necessary in the present set-up to modify this definition so as to bring within its scope a President's Act as well.

The present enactment gives effect to these proposals.

The Committee constituted under the proviso to sub-section (2) of section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, has approved the enactment of this measure.

A. V. PAI,
*Secy. to the Govt. of India,
Ministry of Home Affairs.*

THE MUNICIPAL (AMENDMENT) ACT, 1955

No. 9 OF 1956

Enacted by the President in the Seventh Year of the Republic of India.

An Act further to amend the Trivandrum City Municipal Act, the Travancore District Municipalities Act, 1916, and the Cochin Municipal Act, XVIII of 1913.

In exercise of the powers conferred by section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, the President is pleased to enact as follows:—

1. (1) This Act may be called the Municipal (Amendment) Act, 1956.
Short title and commencement.
- (2) This section shall come into force at once; clause (ii) of section 2, clause (ii) of section 3 and clause (ii) of section 4 shall be

deemed to have come into force on the 1st day of April, 1955, and the rest of this Act shall come into force on such date as the Government may, by notification in the Gazette, appoint.

**Amendment
of Act IV of
1116.**

2. In the Trivandrum City Municipal Act,—

(i) in clause (34) of section 3, before the words "allowances for house rent", the words "dearness or local allowances or" shall be inserted;

(ii) in section 13, the words "not exceeding rupees five hundred per mensem in the aggregate" shall be omitted;

(iii) for sub-section (3) of section 107, the following sub-sections and *Explanation* shall be substituted, namely:—

"(3) If a person proves that he has paid the sum due on account of the profession tax levied under this or any other Act, for the same half year, to any local authority in the State, such person shall not be liable, by reason merely of change of business, appointment, residence or place of business, to pay to any other local authority more than the difference between such sum and the amount to which he is otherwise liable for the profession tax for the half year under this or such other Act.

(4) Nothing contained in this section shall be deemed to render a person who resides within the local limits of one local authority and exercises his profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities liable to profession tax for more than the higher of the amounts of the tax leviable by any of the local authorities. In such a case, the Government shall apportion the tax between the local authorities in such manner as they may deem fit and the decision of the Government shall be final.

Explanation.—For the purposes of this section, "aggregate income" shall not include dearness or local allowances or allowances for house rent, carriage hire or travelling expenses."

**Amendment
of Travancore Act
XXIII
of 1116.**

3. In the Travancore District Municipalities Act, 1116,—

(i) in clause (29) of section 3, before the words "allowances for house rent", the words "dearness or local allowances or" shall be inserted;

(ii) in clause (a) of sub-section (6) of section 13, the words "not exceeding four hundred rupees per mensem in the aggregate" shall be omitted;

(iii) in the second paragraph of section 24, for the words "Our Government", the words "the Collector" shall be substituted;

(iv) for sub-section (1) of section 35, the following sub-section shall be substituted, namely:—

"(1) As soon as may be after the first day of April in every year, and not later than such date as may be fixed by the Government, the municipal council shall submit to the Government through the Collector a report on the administration during the preceding year in such form and with such details as the Government may direct. If the Collector makes any remarks on the report, such remarks shall be forwarded to the council and the council shall be entitled within such time as the Government fix, to offer or make such explanations or observations as the council thinks fit.";

(v) in section 36,—

(a) in sub-section (1), the words "if so authorised in this behalf by Our Government" shall be omitted, and for the word "Division", the word "District" shall be substituted;

(b) in sub-section (2), the words "if authorised in this behalf" shall be omitted;

(vi) in sub-section (1) of section 39, the proviso shall be omitted;

(vii) in sub-section (3) of section 53, for the expression "clause (i)", the expression "clause (j)" shall be substituted;

(viii) for sub-sections (3) and (4) of section 91, the following sub-sections and *Explanation* shall be substituted, namely:—

"(3) If a company or person proves that it or he has paid the sum on account of the profession tax leviable under this or any other Act, for the same half year to any local authority in the State, such company or person shall not be liable, by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence, to pay to any other local authority, more than the difference between such sum and the amount to which it or he is otherwise liable for the profession tax for the half year under this or such other Act.

(4) Nothing contained in this section shall be deemed to render a person who resides within the local limits of one local authority and exercises his profession, art or calling, or transacts business or holds any appointment within

the limits of any other local authority or authorities, liable to profession tax for more than the higher of the amounts of the tax leviable by any of the local authorities. In such a case, the Government shall apportion the tax between the local authorities in such manner as they may deem fit and the decision of the Government shall be final.

Explanation.—For the purposes of this section, “aggregate income” shall not include dearness or local allowances or allowances for house rent, carriage hire, or travelling expenses.”

Amendment
of Cochin
Act XVIII
of 1113.

4. In the Cochin Municipal Act, XVIII of 1113,—

(i) in clause (xxix) of section 3, before the words “allowances for house rent”, the words “dearness or local allowances or” shall be inserted;

(ii) in clause (a) of sub-section (6) of section 13, the words “not exceeding four hundred rupees per mensem in the aggregate” shall be omitted;

(iii) in clause (a) of section 15, for the words “the Government”, in both places where they occur, the words “a controlling authority” shall be substituted;

(iv) in clause (iii) of the proviso to sub-section (3) of section 20, for the word “Government”, the word “Collector” shall be substituted;

(v) in section 24, for the word “Government”, the word “Collector” shall be substituted;

(vi) for sub-section (1) of section 33, the following sub-section shall be substituted, namely:—

“(1) As soon as may be after the first day of April in every year, and not later than such date as may be fixed by the Government, the municipal council shall submit to the Government through the Collector a report on the administration during the preceding year in such form and with such details as the Government may direct. If the Collector makes any remarks on the report, such remarks shall be forwarded to the council and the council shall be entitled within such time as the Government fix, to offer or make such explanations or observations as the council thinks fit.”;

(vii) after section 33, for the heading “The Government”, the heading “Controlling Authorities” shall be substituted;

(vii) (a) section 34 shall be re-numbered as sub-section (2) of that section and before the sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

“(1) The Collector may enter on and inspect, or cause to be entered on and inspected, any immovable property or any work in progress under the control of any municipal authority in his district.”;

(b) in sub-section (2) as so re-numbered, for the words “The Government may”, the words “The Government or the Collector may” shall be substituted;

(ix) after section 34, the following section shall be inserted, namely:—

“34A. If it appears to the Collector that the executive authority of a municipality has made default in carrying out any resolution of the council, the Collector, after giving the executive authority a reasonable opportunity of explanation, shall send a report thereon together with the explanation, if any, of the executive authority to the Government and at the same time forward a copy of the same to the council.”;

Collector's
power to
enforce exe-
cution of
resolutions.

(x) for sub-section (2) of section 35, the following sub-section shall be substituted, namely:—

“(2) If, in the opinion of the Collector, immediate action is necessary on any of the grounds referred to in clause (c) of sub-section (1), he may suspend the resolution, order, licence, permission or act, as the case may be, and report to the Government who may thereupon either rescind the Collector's order or, after giving the authority or person concerned a reasonable opportunity of explanation, direct that it continues in force with or without modification permanently or for such period as they think fit.”;

(xi) in sub-section (1) of section 36, for the word “Government”, the word “Collector” shall be substituted;

(xii) for sub-section (4) of section 38, the following sub-section shall be substituted, namely:—

“(4) If the expenses which the Government have directed under sub-section (2) or (3) to be paid from the municipal fund are not so paid, the Collector, with the previous sanction of the Government, may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against such fund except charges for the service of authorised loans.”;

(xiii) for sub-sections (3) and (4) of section 86 and the *Explanation* thereto, the following sub-sections and *Explanations* shall be substituted, namely:—

"(3) If a company or person proves that it or he has paid the sum due on account of the tax on profession and other sources of income levied under this or any other Act, for the same half year, to any local authority in the State, such company or person shall not be liable, by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence, to pay to any other local authority more than the difference between such sum and the amount to which it or he is otherwise liable for the tax on profession and other sources of income for the half year under this or such other Act.

(4) Nothing contained in this section shall be deemed to render a person who resides within the limits of one local authority and exercises his profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities, liable to tax on profession and other sources of income for more than the higher of the amounts of the tax leviable by any of the local authorities. In such a case, the Government shall apportion the tax between the local authorities in such manner as they may deem fit and the decision of the Government shall be final.

Explanation I.—The word 'person' in this section includes also the manager of a joint Hindu or Marumakkathayee family.

Explanation II.—For the purposes of this section, "aggregate income" shall not include dearness or local allowances or allowances for house rent, carriage hire or travelling expenses".

RAJENDRA PRASAD,

President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

Reasons for the enactment

The laws governing municipalities in the State of Travancore-Cochin are:—

- (i) the Trivandrum City Municipal Act, IV of 1116, applicable to the city of Trivandrum;
- (ii) the Travancore District Municipalities Act, 1116 (XXIII of 1116), applicable to the municipalities in the Travancore area; and
- (iii) the Cochin Municipal Act, XVIII of 1113, applicable to the municipalities in the Cochin area.

Experience of the working of these Acts has revealed certain defects therein and to rectify some of these defects a Bill to amend these Acts was introduced in the Legislative Assembly and referred to a Select Committee. The Assembly, however, was dissolved by the President's Proclamation dated the 23rd March, 1956, and so, that Bill could not be proceeded with. The present enactment seeks to incorporate the provisions of this Bill and also other provisions which are found necessary to rectify a few other defects in the working of these Acts. The provisions of the enactment with reasons therefor are briefly explained below.

2. Section 2 makes amendments to the Trivandrum City Municipal Act, IV of 1116.

(a) *Clause (i).*—As the Travancore-Cochin High Court held in a recent judgment that dearness or local allowance did not form part of "salary" for assessment to profession tax, these allowances have been excluded from the scope of the definition of "salary".

(b) *Clause (ii).*—Under section 13 of the Act, the maximum salary and allowances payable to the Commissioner of the Corporation of the city of Trivandrum is Rs. 500 a month. The posts of Municipal Commissioners in the State have been constituted as cadre posts and their scales of pay are proposed to be revised in order to bring them in line with the pay scales of Government officers of similar status. The pay scales of Government servants have been revised with effect from 1st April, 1955. The statutory restriction placed by section 13 regarding the maximum salary and allowances payable to the Commissioner of the Corporation has accordingly been removed.

(c) *Clause (iii).*—Under section 117 of the Act, relief from double taxation is available to persons residing in the city and transacting a business in a municipal area in Travancore and also to persons residing in a municipal area in Travancore and transacting business

in the city, but the relief does not extend to persons residing in a panchayat area or in a municipal area in Cochin and transacting business in the city or to persons residing in the city and transacting business in a panchayat area or a municipal area in Cochin. Although section 91 of the Travancore District Municipalities Act, 1116 (XXIII of 1116), and section 83 of the Cochin Municipal Act, XVIII of 1113, give relief to persons residing in one municipal area in Travancore or Cochin, as the case may be, and transacting business in any other municipal area in Travancore or Cochin, they do not extend the relief to persons residing in a municipal area in Travancore and transacting business in a municipal area in Cochin and vice versa. The amendment seeks to remove this anomaly.

3. *Section 3* amends the Travancore District Municipalities Act, 1116 (XXIII of 1116).

(a) *Clauses (i) and (ii).*—The reasons for making the amendments are similar to those given in respect of the amendments made to section 3(34) and section 13 of the Trivandrum City Municipal Act, IV of 1116—see paragraphs 2(a) and 2(b) above.

(b) *Clauses (iii) to (vi)* amend sections 24, 35, 36 and 39 for the purpose of conferring on the Collector the powers which are exercisable by the Government under those sections.

(c) *Clause (vii)* rectifies a mistake in section 53(3) by inserting the correct reference therein.

(d) *Clause (viii).*—The reasons for enacting new section, 91(3) and 91(4) are similar to those given in respect of new sections 107(3) and 107(4) of the Trivandrum City Municipal Act, XXIII of 1116—see paragraph 2(c) above.

4. *Section 4* makes amendments to the Cochin Municipal Act, XVIII of 1113.

(a) *Clauses (i) and (ii).*—The reasons for making the amendments are similar to those given in respect of the amendments made to section 3(34) and section 13 of the Trivandrum City Municipal Act, XXIII of 1116—see paragraphs 2(a) and 2(b) above.

(b) *Clauses (iii) to (viii) and (x) to (xii)* make certain amendments in sections 15, 20, 24, 33, 34, 35, 36 and 38 for the purpose of conferring on the Collector the powers which are exercisable by the Government under those sections.

(c) *Clause (ix)* inserts new section 34A with a view to empower the Collector to enforce the execution of resolutions of municipal councils under certain circumstances.

(d) *Clause (xiu).*—The reasons for enacting new sections 86(3) and 86(4) are similar to those given in respect of new sections 107(3) and 107(4) of the Trivandrum City Municipal Act, XXIII of 1916—see paragraph 2(c) above.

3. The Committee constituted under the proviso to sub-section (2) of section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, has approved the enactment of this measure.

A. V. PAI,

*Secy. to the Govt. of India,
Ministry of Home Affairs*

THE TRAVANCORE-COCHIN COMPENSATION FOR TENANTS IMPROVEMENTS ACT, 1956

NO. 10 OF 1956

Enacted by the President in the Seventh Year of the Republic of India.

An Act to make provision for payment of compensation for improvements made by tenants in the State of Travancore-Cochin.

29 of 1956. In exercise of the powers conferred by section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, the President is pleased to enact as follows:—

1. (1) This Act may be called the Travancore-Cochin Compensation for Tenants Improvements Act, 1956. Short title,
extent and
commencement.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once.

2 In this Act, unless the context otherwise requires,—

Definitions.

(a) “eviction” means the recovery of possession of land from a tenant;

(b) “improvement” means any work or product of a work which adds to the value of the holding, is suitable to it and consistent with the purpose for which the holding is let, mortgaged or occupied, but does not include such clearances, embankments, levellings, enclosures, temporary wells and water channels as are made by the tenant in the ordinary course of cultivation and without any special expenditure or any other benefit accruing to land from the ordinary operations of husbandry;

(c) "State" means the State of Travancore-Cochin;

(d) "tenant" with its grammatical variations and cognate expressions, includes a person who, as lessee, sub-lessee, mortgagee or sub-mortgagee or in good faith believing himself to be lessee, sub-lessee, mortgagee or sub-mortgagee of land, is in possession thereof or who, with the *bona fide* intention of attorning and paying a reasonable rent to the person entitled to cultivate or let waste-land, but without the permission of such person, brings such land under cultivation and is in occupation thereof as cultivator.

What are
presumed to
be improve-
ments.

3. Until the contrary is shown, the following works or the products of such works shall be presumed to be improvements for the purposes of this Act,—

(a) the erection of dwelling houses, buildings-appurtenant thereto and farm buildings;

(b) the construction of tanks, wells, channels, dams and other works for the storage or supply of water for agricultural or domestic purposes;

(c) the preparation of land for irrigation;

(d) the conversion of one-crop into two-crop land;

(e) the drainage, reclamation from rivers or other waters or protection from floods or from erosion or other damage by water, of land used for agricultural purposes, or of waste-land which is culturable;

(f) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(g) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto; and

(h) the planting or protection and maintenance of fruit trees, timber trees and other useful trees and plants.

Tenants en-
titled to-
compensation
for improve-
ments.

4. (1) Every tenant shall, on eviction, be entitled to compensation for improvements which were made by him, his predecessor-in-interest or by any person not in occupation at the time of the eviction who derived title from either of them and for which compensation had not already been paid; and every tenant to whom compensation is so due shall, notwithstanding the determination of the tenancy or the payment or tender of the mortgage money or premium, if any, be entitled to remain in possession until eviction in execution of a decree or order of court:

19 of 1951. Provided that nothing herein contained shall be construed as affecting the provisions of the Travancore-Cochin Land Conservation Act, 1951.

(2) A tenant so continuing in possession shall, during such continuance, hold as a tenant subject to the terms of his lease or mortgage, if any.

5. (1) In a suit for eviction instituted against a tenant in which Decree in the plaintiff succeeds and the defendant establishes a claim for compensation due under section 4 for improvements, the court shall ascertain as provided in sections 7 to 16, the amount of compensation and shall pass a decree declaring the amount so found due and ordering that on payment by the plaintiff into the court of the amount so found due and also the mortgage money or the premium, as the case may be, the defendant shall put the plaintiff into possession of the land with the improvements thereon.

(2) If in such suit the court finds any sum of money due by the defendant to the plaintiff for rent, or otherwise in respect of the tenancy, the court shall set off such sum against the sum found due under sub-section (1), and shall pass a decree declaring as the amount payable to him on eviction the amount, if any, remaining due to the defendant after such set-off:

Provided that the court shall not set off any sum of money due for rent as aforesaid, if such sum is not legally recoverable.

(3) The amount of compensation for improvements made subsequent to the date up to which compensation for improvements has been adjudged in the decree and the re-valuation of an improvement, for which compensation has been so adjudged, when and in so far as such re-valuation may be necessary with reference to the condition of such improvement at the time of eviction as well as any sum of money accruing due to the plaintiff subsequent to the said date for rent, or otherwise in respect of the tenancy shall be determined by order of the court executing the decree and the decree shall be varied in accordance with such order.

(4) Every matter arising under sub-section (3) shall be deemed to be a question relating to the execution of a decree within the meaning of sub-section (1) of section 47 of the Code of Civil Procedure, 1908.

5 of 1908. 6. Whenever a court passes a decree or order for eviction against a tenant and such tenant has erected any building, constructed any work or planted any tree which the court finds is not an improvement for which compensation can be claimed, but which, Tenant's right to remove buildings, works or trees deemed not improvements. -

the court finds can be removed without substantial injury to the holding, such tenant may remove such building, work or tree within a time to be fixed by the court in its decree or order and the court may, from time to time, extend the time so fixed.

Improvement producing an increase in the value of the annual net produce.

7. When the improvement is not an improvement to which section 11 applies and has caused an increase in the value of the annual net produce of the holding, the court shall determine as nearly as may be, the average net money value of such increase and shall award as compensation for the improvement, three-fourths of the amount arrived at by capitalising such net money value at 20 times.

Explanation 1.—The value of the net produce means the amount remaining after deducting from the value of the gross produce the cost of cultivation and the Government assessment and local taxes.

Explanation 2.—In determining the net money value of the increase, regard shall also be had to the condition of the improvement and probable duration of its effects and the labour and capital required for making such improvement.

Trees or plants spontaneously grown.

8. When the improvement is not an improvement to which section 7 applies but consists of timber trees or of other useful trees or plants spontaneously grown during the period of the tenancy or sown or planted by any of the persons mentioned in section 4, the compensation to be awarded shall be three-fourths of the sum which the trees or plants might reasonably be expected to realise if sold by public auction to be cut and carried away.

Other kinds of improvements.

9. When the improvement is not an improvement to which section 7 or section 8 applies, the compensation to be awarded shall be the cost of the labour including supervision thereof and of the materials together with other expenditure, if any, which would, at the time of the valuation, be required to make the improvement, less a reasonable deduction on account of the deterioration, if any, which may have taken place from age or other cause.

Value of improvement to be ascertained in the way most favourable to the tenant.

10. Notwithstanding anything contained in sections 7, 8 and 9, the amount of compensation to be awarded for an improvement shall be ascertained in the way prescribed by any of the said sections which is most favourable to the tenant.

Illustrations—(a) The compensation to be awarded for a jack tree as a fruit tree is ascertained under section 7 to be Rs. 7, but for the same tree as a timber tree it is ascertained under section 8 to be Rs. 10.

(b) The compensation to be awarded for an immature casuarina plantation is ascertained under section 8 to be Rs. 20, but under section 9 to be Rs. 100.

In each case the court shall award the higher amount.

11. When the improvement consists in the protection and maintenance of timber or fruit trees or of other useful trees or plants not sown or planted by any of the persons mentioned in section 4, or of such trees or plants spontaneously grown prior to the commencement of the tenancy, the compensation to be awarded shall be the proper cost of such protection and maintenance ascertained as provided in section 9.

12. The Government may prepare for the whole or any part of the State, tables showing the maximum and minimum rates of compensation to be awarded under this Act, for all or any class of improvements and when such tables have been published, the amount awarded as compensation under sections 7, 8, 9 and 10 shall not ordinarily exceed such maximum rates nor shall it in any case be less than such minimum rates.

13. (1) For the purpose of determining the amount of compensation to be awarded under this Act, the Government may prepare tables for the whole or any part of the State showing all or any of the following matters:—

(a) the price of cocoa-nuts, areca-nuts, pepper and paddy;

(b) the cost of—

(i) cultivating and harvesting a crop of paddy;

(ii) planting, protecting and maintaining a cocoa-nut tree, an areca-nut tree, a jack tree, a mango tree and a pepper vine, until the tree or vine is in bearing;

(iii) protecting and maintaining a cocoa-nut tree, an areca-nut tree, a jack tree, a mango tree and a pepper vine for one year when in bearing.

(2) The tables prepared under this section shall on publication be receivable in evidence and the rates and amounts therein specified shall be presumed to be the proper rates and amounts until the contrary is proved:

Provided that, in so far as such tables prescribe prices of products, the presumption shall not be rebuttable except by proof of the average price as provided in section 14.

14. In respect of any product for which no table showing the value how ascertained price has been published and whenever the presumption under section 13 is rebutted, the court shall adopt, as the money value for the purpose of awarding compensation under section 7, the average price, as nearly as may be ascertainable in the taluk where the land is situated, for a period of 10 years, immediately preceding the institution of the suit.

Tables to be published.

15. The tables prepared under this Act shall be published in English and in Malayalam or Tamil in the Gazette and shall be kept publicly posted in the Civil Courts having jurisdiction over the area to which the tables apply.

The Government may, by like publication, cancel or vary, from time to time, the tables so published.

Compensation when area is over-planted.

16. When trees are planted in excess of the following scale, the court, if satisfied that, in the circumstances of the particular case, the land is overplanted, may notwithstanding anything hereinbefore contained, either refuse to grant any compensation or may grant compensation at a lower rate, for so many of the trees as are in excess of the scale and are immature—

Cocoa-nut trees 100 per acre.

Areca-nut trees 720 per acre.

Jack trees 60 per acre.

In the case of a mixed garden, each tree shall be allowed a proportionate fraction of an acre according to the above scale.

Contracts affecting compensation for improvements to be invalid.

17. Nothing in any contract entered into before the commencement of this Act shall take away or limit the right of a tenant to make improvements and to claim compensation for them in accordance with the provisions of this Act:

Provided that nothing herein contained shall affect any agreement in writing registered and made after the effecting of the improvements settling the amount of compensation due therefor at the date of such agreement:

Provided further that this section shall not operate against any contract whereby the tenant's right to make improvements in the nature of buildings or to claim value of improvements therefor has been taken away or limited.

Repeal.

18. The Cochin Tenancy Act, XV of 1113, is hereby repealed.

RAJENDRA PRASAD,
President.

—
K. V. K. SUNDARAM,
Secy. to the Govt. of India.

Reasons for the enactment

Chapter II of the Cochin Tenancy Act, 1113, provides for the payment of compensation to tenants for improvements on eviction, in the Cochin area of the State of Travancore-Cochin. But in the

Travancore area of that State there is no statutory law governing this matter. As it was considered that there should be a uniform law on the subject applicable to the whole State, a Bill based mainly on the provisions of the Cochin Act was introduced in the Legislative Assembly and referred to a Select Committee. That Committee, after considering the Bill, slightly amended it. The Bill as so amended could not, however, be proceeded with in view of the dissolution of the Assembly by the Proclamation of the President. The present measure which has been enacted follows the provisions of the Bill as amended by the Select Committee.

The Committee constituted under the proviso to sub-section (2) of section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, has approved the enactment of this measure.

A. V. PAI,
Secy. to the Govt. of India,
Ministry of Home Affairs.

THE TRAVANCORE-COCHIN LIME-SHELLS (CONTROL) ACT, 1956

NO. II OF 1956

Enacted by the President in the Seventh Year of the Republic of India.

An Act to provide for the control of the acquisition, sale, supply and distribution of lime-shells in the State of Travancore-Cochin.

In exercise of the powers conferred by section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, the President is pleased to enact as follows:—

1. (1) This Act may be called the Travancore-Cochin Lime-shells (Control) Act, 1956. Short title,
ext. and
commencement.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) This section shall come into force at once, and the Government may, from time to time, by notification in the Gazette, direct that the rest of this Act shall come into force in the whole or any portion of the State with effect from such date as may be specified in the notification.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "dealer" means a person carrying on, either personally or through any other person the business of selling lime-shells, whether wholesale or retail;

(b) "Licensing Authority" means an officer appointed by the Government to perform the functions of a Licensing Authority under this Act;

(c) "lime-shells" means the shells of all varieties of shell-fish by whatever name called;

(d) "offer for sale" includes an intimation by a dealer or producer of the price proposed by him for a sale of lime-shells made by the publication of a price list, by exposing his lime-shells for sale in association with a mark indicating price, by the furnishing of a quotation or otherwise howsoever;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "producer" means a person carrying on the business of collecting lime-shells and stocking the same for sale.

(2) A dealer or producer shall be deemed to be in possession of lime-shells—

(a) when they are held on his behalf by another person;

(b) notwithstanding that they are mortgaged to another person.

Licensing of
dealers and
producers.

3. (1) No person other than a dealer or producer licensed under this section, shall carry on the business of selling lime-shells or of collecting lime-shells and stocking the same for sale.

(2) Every person, who carries on or wishes to carry on, the business of selling lime-shells or of collecting lime-shells and stocking the same for sale, shall make an application in the prescribed form for a licence to the Licensing Authority.

(3) The Licensing Authority may grant a licence in such form and subject to such terms and conditions as may be prescribed, or may refuse to grant a licence, in which case he shall communicate his reasons for such refusal to the applicant.

(4) The Licensing Authority may, at any time during the currency of a licence, rescind the licence by order in writing to the licence holder, for a breach of any of the terms and conditions of the licence.

(5) Any person aggrieved by an order of the Licensing Authority under sub-section (3) or sub-section (4) may appeal to such authority, and within such time, and in such form, as may be prescribed; the appeal shall be heard by the prescribed authority in such manner as may be prescribed; and the decision of that authority on the appeal shall be final.

4. (1) The Government may, by notification in the Gazette, fix in respect of lime-shells,—

Fixing of maximum prices and maximum quantities which may be held or sold.

- (a) the maximum price or rate which may be charged by a dealer or producer;
- (b) the maximum quantity which may at any one time be possessed by a dealer or producer;
- (c) the maximum quantity which may in any one transaction be sold to any one person.

(2) The prices or rates and the quantities fixed in respect of lime-shells under this section may be different in different localities or for different classes of dealers or producers.

5. No dealer or producer licensed under this Act shall—

Restrictions on sale, etc. where maximum is fixed under section 4.

- (a) sell, agree to sell, offer for sale or otherwise dispose of lime-shells for a price or at a rate exceeding the maximum fixed by notification under clause (a) of sub-section (1) of section 4;
- (b) have in his possession at any one time a quantity of lime-shells exceeding the maximum fixed by notification under clause (b) of sub-section (1) of section 4; or
- (c) sell, agree to sell or offer for sale to any person in any one transaction a quantity of lime-shells exceeding the maximum fixed by notification under clause (c) of sub-section (1) of section 4.

6. Any dealer or producer licensed under this Act, having in his possession a quantity of lime-shells exceeding that permitted under this Act, shall forthwith report the fact to the Licensing Authority and shall take such action as to the storage, distribution or disposal of the excess quantity as the Licensing Authority may direct.

Duty to declare pos- session of excess stocks.

7. No dealer or producer licensed under this Act shall, unless previously authorised to do so by the Licensing Authority, refuse, without sufficient cause, to sell to any person lime-shells within the limits as to quantity, if any, imposed under this Act.

Refusal to sell.

Explanation.—The possibility or expectation of obtaining a higher price for lime-shells at a later date shall not be deemed to be a sufficient cause for the purposes of this section.

8. (1) Every dealer or producer licensed under this Act, when selling lime-shells for cash, shall, if the amount of the purchase is five rupees or more, in all cases, and if the amount of the purchase is

Cash memo random to be given.

less than five rupees, when so required by the purchaser, give to the purchaser a cash memorandum containing such particulars of the transaction as may be prescribed.

(2) The Government may, by notification in the Gazette, exempt specified areas or classes of dealers or producers licensed under this Act from the operation of this section.

Prohibition of sale, etc. 9. If, in the opinion of the Government, it is necessary or expedient so to do, they may by order in writing,—

(a) prohibit the disposal of lime-shells except in such circumstances and under such conditions as may be specified in the order;

(b) direct the sale of lime-shells to any such dealer or class of dealers licensed under this Act and in such quantities as may be specified in the order;

and may make such further orders as appears to them to be necessary or expedient in connection with any order issued under this section.

Penalties. 10. (1) Whoever contravenes any of the provisions of this Act or any of the terms and conditions of a licence issued under this Act or any directions made under authority conferred by this Act, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) A court convicting any person of any offence punishable under this Act may order that the stock of lime-shells in respect of which the offence was committed and any property involved in or utilised for the commission of such offence shall be forfeited to the Government.

Offences by companies. 11. (1) If the person contravening the provisions of this Act is a company, every person who at the time the contravention was committed was incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company

and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

12. No person other than a police officer of or above the rank of an ~~Procedure~~ Inspector of Police shall investigate any offence under this Act.

13. Any person competent to investigate any offence under this ~~Powers of~~ ~~search and~~ ~~seizure.~~ Act may search any place in which he has reason to believe that an offence under this Act has been, or is being, or is about to be, committed, and take possession of any stock of lime-shells in respect of which the offence has been, or is being, or is about to be, committed and any property involved in or utilised for the commission of such offence.

14. No suit, prosecution or other legal proceedings shall lie ~~Protection of~~ ~~action taken~~ ~~in good faith.~~ against any person for anything which is in good faith done or intended to be done under this Act.

15. (1) The provisions of this Act shall not apply to any person ~~Exemptions.~~ who collects, stocks or sells lime-shells as curios or for making ornaments.

(2) Subject to such conditions and restrictions as the Government may think fit to impose, they may, by general or special order notified in the Gazette, exempt from all or any of the provisions of this Act, any person or class of persons who,—

(i) collect lime-shells and stock them for conversion into lime for use as an ingredient in chewing material; or

(ii) collect and sell lime-shells for the edible content thereof.

16. (1) The Government may make rules to carry out the pur- ~~poses of this Act.~~ ~~Power to make rules.~~

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) the charging of fees for licences issued under this Act;
- (c) the maintenance by licensed dealers and producers generally or by any licensed dealer and producer in particular, of records of all sale and purchase transactions or disposals made by him; and the production of such records to the Licensing Authority;
- (d) the furnishing of such information as may be required by the Licensing Authority with respect to the business carried on by any dealer or producer;
- (e) the furnishing of returns to the Licensing Authority by licensed dealers and producers and the particulars which such returns shall contain.

(3) All rules made under this Act shall be published in the Gazette.

RAJENDRA PRASAD,
President.

—
K. V. K. SUNDARAM,
Secy. to the Govt. of India.

Reasons for the enactment

Lime-shell which is a form of calcium carbonate is available in large quantities in the sea and the sea-shore, in back-waters and kayal porambokes and also in registered lands. These shells are collected and used for agricultural and industrial purposes and also as an ingredient in building materials. In bulk, it is now being used for the manufacture of cement. It is considered necessary to conserve this commodity to the extent possible and to prevent its depletion in the State of Travancore-Cochin. It is also considered necessary to regulate the supply and distribution of this commodity and to make it available at reasonably low prices. The collection of lime-shells from the sea and the back-waters is now being regulated by licences. Collection from the sea-shore and other poramboke lands is proposed to be regulated under permits and to legalise this the Land Conservancy Act is proposed to be suitably amended. Restriction by way of permits cannot apply to collection from registered lands. Lime-shells collected from registered lands are sold or disposed of

indiscriminately and there is reported to be some unhealthy competition in the trade. This state of affairs is detrimental to the interests of both the producers and the consumers and also to the industry. It is, therefore, necessary to impose certain restrictions on the sale and disposal of lime-shells by introducing a system of licensing of dealers in and producers of lime-shells. Fixation of ceiling prices for the sale of lime-shells and also of the maximum quantity which may be stocked or sold in one transaction is also considered necessary to minimise the evils of unhealthy competition.

2. A Bill to provide for the control of the acquisition, sale, supply and distribution of lime-shells in the State was introduced in the Legislative Assembly and referred to a Select Committee, but that Committee could not meet and discuss the provisions of the Bill in view of the dissolution of the Legislative Assembly by the President's Proclamation dated the 23rd March, 1956. The Travancore-Cochin Lime-shells (Control) Act, 1956, which has now been enacted follows with slight variations the Bill which has lapsed. The provisions of the Act are briefly explained below.

3. Section 3 provides that persons other than licensed dealers and producers shall not carry on the business of selling lime-shells or of collecting and stocking the same for sale and that persons who carry on or wish to carry on such business have to apply to the Licensing Authority for the grant of licences. That Authority will have power to grant a licence subject to such terms and conditions as may be laid down in the rules made under the Act or to refuse to grant the licence applied for but in case of refusal the reasons therefor will have to be communicated to the applicant. The Licensing Authority will also have power to rescind a licence for a breach of its terms and conditions. Provision has also been made for appeals to the prescribed authority and the decision of that authority will be final.

4. Section 4 empowers the Government to fix by notification in the Gazette the maximum price or rate to be charged by a dealer or producer and the maximum quantity to be possessed at a time by a dealer or producer or to be sold in one transaction to one person.

5. Section 5 prohibits a licensed dealer or producer from exceeding the maximum price, rate or quantity fixed under section 4.

6. Section 6 requires the dealer or producer to inform the Licensing Authority of any excess quantity of lime-shells in his possession and also to conform to the directions of that Authority regarding the storage, distribution or disposal of such quantity.

7. *Section 7* prohibits a licensed dealer or producer from refusing without sufficient cause to sell lime-shells, unless previously authorised to do so by the Licensing Authority.

8. *Section 8* requires a licensed dealer or producer to furnish the purchaser with a cash memorandum containing the prescribed particulars of the transaction, in all cases where the purchase amount is Rs. 5 or more and if so required by the purchaser where it is less than Rs. 5. Power has also been taken by Government to exempt specified areas or classes of licensed dealers or producers from the operation of this provision.

9. *Section 9* empowers the Government to issue orders prohibiting the disposal of lime-shells, except in accordance with the conditions specified therein, or directions for the sale of quantities of lime-shells specified therein.

10. *Section 10* prescribes penalties for a contravention of the provisions of the Act or of the terms and conditions of a licence or of a direction thereunder. The court has also been empowered to order the forfeiture of any stock of lime-shells and other property used in connection with an offence.

11. *Section 11* provides for the punishment of directors or other persons concerned with the management of a company, when the company commits an offence under the Act.

12. *Section 12* empowers only police officers of or above the rank of an Inspector of Police to investigate offences under the Act.

13. *Section 13* authorises officers competent to investigate offences under the Act to exercise powers of search and seizure.

14. *Section 14* protects persons taking action in good faith under the provisions of the Act from civil or criminal liability in respect of such action.

15. *Section 15* exempts persons who collect, stock or sell lime-shells as curios or for making ornaments, from the provisions of the Act and also empowers the State Government to exempt to such extent as may be necessary, persons who collect lime-shells for preparing lime for use as an ingredient in chewing material or for selling the edible content thereof.

16. *Section 16* gives the requisite rule-making power to Government. In particular the rules may provide for the levy of fees for licences.

17. The Committee constituted under the proviso to sub-section (2) of section 3 of the Travancore-Cochin State Legislature (Delegation of Powers) Act, 1956, has approved the enactment of this measure.

A. V. PAI.

*Secy. to the Govt. of India,
Ministry of Home Affairs.*

